

Joseph N. Kravec, Jr.
 (Admitted *Pro Hac Vice*)
 SPECTER SPECTER EVANS
 & MANOGUE, P.C.
 The 26th Floor Koppers Building
 Pittsburgh, Pennsylvania 15291
 Tel: (412) 642-2300
 Fax: (412) 642-2309

Ryan E. Bull (Admitted *Pro Hac Vice*)
 David A. Super (Admitted *Pro Hac Vice*)
 Stephen M. Ng (Admitted *Pro Hac Vice*)
 BAKER BOTTS L.L.P.
 1299 Pennsylvania Avenue, NW
 Washington, DC 20004-2400
 Tel: (202) 639-7700
 Fax: (202) 585-4064

(Additional Counsel on Signature Page) (Additional Counsel on Signature Page)

ATTORNEYS FOR PLAINTIFFS

**ATTORNEYS FOR DEFENDANT
 FDIC IN ITS CAPACITY AS
 RECEIVER FOR WASHINGTON
 MUTUAL BANK**

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION J

SIDNEY SCHOLL and FELTON A.
 SPEARS, JR., on behalf of themselves
 and all others similarly situated,

Plaintiffs,

vs.

FEDERAL DEPOSIT INSURANCE
 CORPORATION, as receiver for
 WASHINGTON MUTUAL BANK, FA)
 (aka) WASHINGTON MUTUAL
 BANK); FIRST AMERICAN
 EAPPRAISEIT, a Delaware
 corporation; and LENDER'S
 SERVICE, INC.,

Defendants.

) Case No. 5-08-CV-000868 RMW

) CLASS ACTION

) **STIPULATION OF DISMISSAL OF**
) **CLAIMS AGAINST FEDERAL**
) **DEPOSIT INSURANCE**
) **CORPORATION, AS RECEIVER**
) **FOR WASHINGTON MUTUAL**
) **BANK**

1 This stipulation is hereby entered into by and among Plaintiffs Sidney Scholl
2 and Felton Spears ("Plaintiffs") and Defendant Federal Deposit Insurance
3 Corporation, in its capacity as Receiver for Washington Mutual Bank ("FDIC-
4 Receiver"), as follows:

5 WHEREAS, on September 25, 2008, the Office of Thrift Supervision
6 ("OTS") closed Washington Mutual Bank ("WMB");

7 WHEREAS, pursuant to Section 1821(c) of the Federal Deposit Insurance
8 Act, 12 U.S.C. § 1821(c), the OTS duly appointed the FDIC as Receiver for WMB;

9 WHEREAS, this Court entered an order substituting FDIC-Receiver as
10 defendant in this case on November 19, 2008, and stayed this action through and
11 until February 16, 2009, pursuant to 12 U.S.C. § 1821(d)(12);

12 WHEREAS, 12 U.S.C. §§ 1821(d)(3) through (13) establish a mandatory
13 administrative claims process for any claimant against a failed financial institution,
14 such as WMB, as held by the U.S. Court of Appeals for the Ninth Circuit in
15 Intercontinental Travel Mktg., Inc. v. FDIC, 45 F.3d 1278, 1284 (9th Cir. 1994);

16 WHEREAS, Federal Rule of Civil Procedure 41(a)(1)(A) provides that,
17 subject to certain exceptions not applicable in this case, a plaintiff may dismiss an
18 action without a court order by filing a notice of dismissal before the opposing
19 party serves an answer or motion for summary judgment; and

20 WHEREAS, neither WMB nor FDIC-Receiver has served an answer or
21 motion for summary judgment in response to the claims filed by Plaintiffs in this
22 case;

23 NOW, THEREFORE, IT IS HEREBY STIPULATED by Plaintiffs and
24 FDIC-Receiver, through their respective counsel of record, that:

25 1. In exchange for a mutual waiver of costs, Plaintiffs' claims against
26 Washington Mutual Bank and FDIC-Receiver in this action are hereby dismissed
27 without prejudice to being re-filed in accordance with 12 U.S.C. §1821(d)(6).
28

2. Such dismissal is without prejudice to Plaintiffs' participation in the administrative claims process for creditors of a failed financial institution, as set forth in 12 U.S.C. §§ 1821(d)(3) to (13).

3. The dismissal of Plaintiffs' individual claims has no purported class-wide effect, and is without prejudice to any putative class members' remaining rights to participate in the administrative claims process established by Congress.

IT IS SO STIPULATED.

Dated: February 4, 2009

SPECTER SPECTER EVANS
& MANOGUE, P.C.

BAKER BOTTS L.L.P.

By: s/Joseph N. Kravec, Jr.
Joseph N. Kravec, Jr.
(Admitted *Pro Hac Vice*)

By: s/ Ryan E. Bull (by permission)
Ryan E. Bull
(Admitted *Pro Hac Vice*)

The 26th Floor Koppers Building
Pittsburgh, Pennsylvania 15219
Tel: (412) 642-2300
Fax: (412) 642-2309
Email: jnk@ssem.com

David A. Super
Stephen M. Ng
1299 Pennsylvania Avenue, NW
Washington, DC 20004-2400
Tel: (202) 639-7700
Fax: (202) 585-4064

Michael D. Braun (SBN 167416)
BRAUN LAW GROUP, P.C.
12304 Santa Monica Blvd., Suite 109
Los Angeles, CA 90025
Tel: (310) 442-7755
Fax: (310) 442-7756
Email: service@braunlawgroup.com

Stephen M. Rummage
Jonathan M. Lloyd
DAVIS WRIGHT TREMAINE LLP
505 Montgomery Street, Suite 800
San Francisco, CA 94111
Tel: (415) 276-6500
Fax: (415) 276-6599

**ATTORNEYS FOR DEFENDANT
FDIC IN ITS CAPACITY AS
RECEIVER FOR WASHINGTON
MUTUAL BANK**

1 Ira Spiro
2 SPIRO MOSS BARNES, LLP
3 11377 West Olympic Blvd., Fifth Floor
4 Los Angeles, CA 90064-1683
5 Tel: (310) 235-2468
6 Fax: (310) 235-2456
7 Email: ira@spiromoss.com

8 Janet Lindner Spielberg
9 LAW OFFICES OF JANET LINDNER
10 SPIELBERG
11 12400 Wilshire Blvd., Suite 400
12 Los Angeles, CA 90025
13 Tel: (310) 392-8801
14 Fax: (310) 278-5938
15 jlspielberg@jslp.com

16 **ATTORNEYS FOR PLAINTIFFS**